

HOUSE BILL REPORT

ESHB 2746

As Passed House:
February 17, 2016

Title: An act relating to mental health and chemical dependency treatment for juvenile offenders.

Brief Description: Concerning mental health and chemical dependency treatment for juvenile offenders.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Walkinshaw, Walsh, Kagi, Senn, Frame, Kilduff, Sawyer, McBride, Goodman, Ormsby and Tarleton).

Brief History:

Committee Activity:

Early Learning & Human Services: 1/27/16, 2/2/16 [DPS];
Appropriations: 2/9/16 [DPS(ELHS)].

Floor Activity:

Passed House: 2/17/16, 93-4.

Brief Summary of Engrossed Substitute Bill

- Includes residential treatment for substance abuse, mental health, or co-occurring disorders in community supervision for juvenile offenders.
- Repeals the juvenile mental health disposition alternative.
- Adds mental health treatment to the chemical dependency disposition alternative to create the chemical dependency or mental health disposition alternative and makes some changes to that disposition alternative, including expanding the length of inpatient treatment that can be ordered.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kagi, Chair; Senn, Vice Chair; Walsh, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer, Scott and Walkinshaw.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Early Learning & Human Services be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Wilcox, Assistant Ranking Minority Member; Buys, Cody, Dent, Fitzgibbon, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Robinson, Sawyer, Senn, Springer, Stokesbary, Sullivan, Tharinger and Van Werven.

Minority Report: Do not pass. Signed by 5 members: Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Haler, Schmick and Taylor.

Minority Report: Without recommendation. Signed by 1 member: Representative Condotta.

Staff: Rachele Harris (786-7137).

Background:

Juvenile Dispositions.

In the juvenile justice system, sentences for juvenile offenders are referred to as "dispositions." If a juvenile is found guilty of committing an offense, the court enters an order of disposition. Most disposition orders impose a punishment that is based upon a standard-range grid, which is set out in statute. The disposition order in a juvenile offender's case may include detention, community service, a period of community supervision, restitution, and/or a fine. The standard-range disposition is determined by the seriousness of the offense and the juvenile's prior criminal history. For less serious offenses, the court may impose "local sanctions," where the juvenile may not be sentenced to more than 30 days in detention. If an offense is serious enough, or if a juvenile has a significant offender history, the juvenile may be committed to a facility within the Juvenile Rehabilitation Administration (JRA), which is within the Department of Social and Health Services (DSHS). Under certain circumstances, the court may deviate from the standard range and impose a disposition alternative or a sentence that is higher or lower than the standard range.

Disposition Alternatives.

Disposition alternatives are referred to in statute as "Options." The juvenile disposition options are:

- Option A (Standard-Range Sentence);
- Option B (Suspended Disposition Alternative);
- Option C (Chemical Dependency Disposition Alternative); and
- Option D (Manifest Injustice).

Option A is the standard-range sentence. Under Option B, the court may suspend a sentence that requires a commitment to the JRA and impose conditions that the juvenile must meet. If the juvenile fails to meet those conditions, the court may require the juvenile to serve the JRA commitment. Option C permits the court to impose an alternative sentence for an

offender who may need substance abuse treatment. Option D allows the court to impose an alternative sentence if the standard-range sentence would be a "manifest injustice," either too harsh or too lenient. Before imposing a sentence under Option D, the court must support its findings by clear, cogent, and convincing evidence.

Chemical Dependency Disposition Alternative.

The Chemical Dependency Disposition Alternative (CDDA) is an alternative sentence for juvenile offenders who may need chemical dependency treatment. Juvenile offenders are eligible for a CDDA if subject to a standard-range disposition of local sanctions or 13 to 36 weeks of confinement and has not committed an A-minus or B-plus offense, other than a first time B-plus drug offense. In these cases, the court may order a chemical dependency evaluation to determine if the youth is chemically dependent.

If the court determines that a CDDA is appropriate, the court must impose a disposition and suspend that disposition with a condition that the juvenile undergo outpatient or inpatient chemical dependency treatment. Inpatient treatment for this purpose must not exceed 90 days. The court may also impose conditions of community supervision and other sanctions as part of the CDDA.

If the juvenile violates any condition of the CDDA or the court finds that the juvenile is failing to make satisfactory progress in treatment, the court may impose sanctions or revoke the suspension.

Community Supervision of Juvenile Offenders.

Community supervision for juvenile offenders means an order of disposition for a youth adjudicated of a juvenile offense who is not committed to a sentence at a JRA institution, or granted a deferred disposition. Community supervision orders for a single offense may be for a period up to two years for a sex offense and up to one year for other offenses. Courts must include as a condition of community supervision an order for the juvenile to refrain from committing new offenses. The court must also include in its order a condition mandating school attendance. Community supervision may also include one or more of the following:

- a fine not to exceed \$500 and community service not to exceed 150 hours;
- employment;
- attendance at information classes;
- literacy classes;
- counseling;
- outpatient substance abuse and mental health treatment programs;
- anger management classes;
- education or outpatient treatment programs to prevent animal cruelty;
- other services;
- attendance at school or other educational programs appropriate for the juvenile as determined by the school district;
- monitoring and reporting requirements; and
- posting of a probation bond.

Summary of Engrossed Substitute Bill:

Residential Treatment Included in Community Supervision.

Residential treatment for substance abuse, mental health, or co-occurring disorders that have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, or chemical dependency professional may be included in the community supervision of juvenile offenders when a funded bed is available. A court may order such inpatient treatment after considering findings regarding whether:

- the referral is necessary to rehabilitate the child;
- the referral is necessary to protect the public or the child;
- the referral is in the child's best interest;
- the child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and
- inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

In cases where the court orders a child to inpatient treatment pursuant to community supervision requirements, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment.

Disposition Alternatives.

The juvenile mental health disposition alternative is repealed.

Mental health is added to the Chemical Dependency Disposition Alternative to create the Chemical Dependency or Mental Health Disposition Alternative. This disposition alternative would now be available to certain juvenile offenders where the evidence shows that the offender has significant mental health or co-occurring disorders and after examination by a mental health professional. After receipt of this report, the court would consider whether the offender and community would benefit from the disposition alternative and the court could order as a condition of the suspended sentence requiring the offender to attend mental health, or co-occurring disorder treatment and/or inpatient mental health treatment.

A funded bed must be available before a judge may order a juvenile to inpatient treatment. The maximum length of inpatient treatment that a court may order under this disposition alternative of 90 days is removed. The court is required to hold a review hearing if the inpatient treatment is longer than 90 days every 30 days beyond the initial 90 days. The respondent may appear telephonically at these review hearings if in compliance with treatment.

The costs incurred by the juvenile courts for the mental health, chemical dependency, and/or co-occurring disorder evaluations, treatment, and the costs of supervision associated with these disposition alternatives must be paid by the Department of Social and Health Services subject to funds appropriated for that purpose.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) The Superior Court Judges Association put a lot of work into this bill. This bill gives courts more options for providing the appropriate treatment for juveniles. Sending a youth with substance abuse or mental health issues to the Juvenile Rehabilitation Administration is wrong. Many judges are confronted with a difficult decision when ordering a disposition for youth with substance abuse or mental health issues. Washington is one of three or four states that does not allow courts to order juveniles to inpatient treatment. Many 13- to 15-year old children do not make a rational decision regarding inpatient treatment. This bill includes careful protections for youth that require certain court findings and court review. We do not have secure treatment beds in this state. Many youth will agree to attend inpatient treatment if there are consequences associated with not attending. Toxic minds make toxic decisions. Inpatient treatment programs are required to have an education component. It is amazing what youth can accomplish after completing inpatient treatment. After the mental health disposition alternative was passed, there was very little use of that law. There is an effort to integrate mental health and chemical dependency systems, so the timing for this bill is appropriate. There is a great deal of data showing that for adults, coerced treatment is as effective as voluntary treatment. In practical terms, a probation officer would bring information to a court with information indicating a need for chemical dependency or mental health treatment, the court could order an assessment, then the court would be required to make certain findings before ordering a youth to engage in residential treatment.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): Representative Walkinshaw, prime sponsor; Barbara Mack, Superior Court Judges Association; and Pete Peterson, Washington Association of Juvenile Court Administrators.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.